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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,978	04/12/2001	Jerry A. Jenks	698	2070

7590

03/07/2003

Law Offices of John D. Gugliotta, P.E., Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Communication Re: Appeal

Application No.

09/833,978

Applicant(s)

JENKS

Examiner

Renee S. Luebke

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c) ☐ the appeal fee received on _____ was not timely filed.
- (d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$_____.
- (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☒ The appeal brief filed on 12 February 2003 is NOT acceptable for the reason(s) indicated below: *see attached*

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
- (d) ☐ other: _____

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

Renee S. Luebke
Primary Examiner
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**NOTIFICATION OF NON-COMPLIANCE
WITH THE REQUIREMENTS OF 37 CFR 1.192(c)**

The Appeal Brief filed February 12, 2003, does not comply with all the requirements of 37 CFR 1.192(c) because it lacks:

(3) **Status of claims.** A statement of the status of all the claims, pending or cancelled, and identifying the claims appealed.

(4) **Status of amendments.** A statement of the status of any amendment filed subsequent to final rejection.

The "Statement of Amendments" that is present in the Brief does not substitute for either of these sections because it is incomplete and does not take into account entry of the amendments filed February 7, 2003 or the Advisory action of February 19, 2003.

In addition, the **Appendix** does not accurately reflect the pending claims.

As per 37 CFR 1.192(d), appellant is provided with a period of one month within which to file an amended brief. If appellant does not file an amended brief during the one-month period, or files an amended brief which does not overcome all the reasons for non-compliance stated in this notification, the appeal will stand dismissed.

Any response to this action may be mailed to:

Assistant Commissioner for Patents
Washington, DC 20231

or faxed to:

(703) 872-9318 or 308-7722 or 308-7724
(informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

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Hand-d livered responses should be brought to:
Crystal Plaza 4, Fourth Floor (Receptionist)
2201 South Clark Place, Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.



Renee S. Luebke
Primary Patent Examiner
March 5, 2003